

**Introduced by Senator DeSaulnier**  
(Coauthor: Assembly Member Beall)

February 27, 2009

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An act to add Part 4 (commencing with Section 11975.10) to Division 10.5 of, and to repeal Section 11975.30 of, the Health and Safety Code, to amend Section 11165.7 of the Penal Code, and to amend Section 15630 of the Welfare and Institutions Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 707, as introduced, DeSaulnier. Alcohol and other drug counselor licensing and certification.

Existing law provides for the licensure, registration, and certification of the various healing arts professionals, including, but not limited to, setting forth the scope of practice, establishing the regulatory boards, department, or bureaus, and setting forth the powers and duties of these entities.

This bill would establish similar licensure, registration, and certification provisions relating to alcohol and other drug counselors to be administered by the State Department of Alcohol and Drug Programs. The bill would make a violation of these provisions a crime. The bill would authorize the department to assess related fees, and would require deposit of the fees into the Alcohol and Other Drug Counselor License Fund, which the bill would establish for expenditure for the purposes of this bill, upon appropriation by the Legislature.

By establishing a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Part 4 (commencing with Section 11975.10) is added to Division 10.5 of the Health and Safety Code, to read:

PART 4. ALCOHOL AND OTHER DRUG COUNSELOR  
LICENSING AND CERTIFICATION

CHAPTER 1. GENERAL PROVISIONS

11975.10. (a) This part shall be known, and may be cited, as the Alcohol and Other Drug Counselor Licensing and Certification Act.

(b) This part shall be liberally construed to achieve its objectives.

11975.15. For purposes of this part, the following terms have the following meanings:

(a) “Certified Alcohol and Other Drug Counselor” or “CAODC” means a person certified by the department pursuant to subdivision (a) of Section 11975.35 to practice alcohol and drug counseling under clinical supervision in a program licensed or certified by the department under this division.

(b) “Certified Alcohol and Other Drug Counselor-Advanced” or “CAODC-A” means a person certified by the department pursuant to subdivision (b) of Section 11975.35 to practice alcohol and drug counseling in a program licensed or certified by the department under this division.

(c) “Certified Alcohol and Other Drug Counselor-Clinical Supervisor” or “CAODC-CS” means a person certified by the department pursuant to subdivision (c) of Section 11975.35 to practice alcohol and drug counseling in a program licensed or certified by the department under this division, and who may provide clinical supervision to registrants, CAODCs, and CAODC-As.

(d) “Licensed Alcohol and Other Drug Counselor” or “LAODC” means a person licensed by the department pursuant to Section

1 11975.40 to practice alcohol and other drug counseling, and who  
2 may provide clinical supervision to any other person licensed,  
3 certified, or registered under this part and who may maintain an  
4 independent counseling practice.

5 (e) “Clinical supervision” means the ongoing process in which  
6 the supervisor participates with one or more supervisees to ensure  
7 quality care, as described in “Competencies for Substance Abuse  
8 Treatment Clinical Supervisors,” Technical Assistance Publication  
9 Series No. 21-A, 2007, published by the United States Department  
10 of Health and Human Services, Substance Abuse and Mental  
11 Health Services Administration Center for Substance Abuse  
12 Treatment, or other sources as the department may specify by  
13 regulation.

14 (f) “Advertise” includes, but is not limited to, the issuance of  
15 any card, sign, or device to any person, or the causing, permitting,  
16 or allowing of any sign or marking on or in any building or  
17 structure, or in any newspaper or magazine or in any directory, or  
18 any printed matter, with or without any limiting qualification. It  
19 also includes business solicitations communicated by radio or  
20 television broadcasting, the Internet, or any other electronic  
21 medium.

22 (g) “Registrant” means an uncertified or unlicensed person who  
23 is in the course of completing the requirements for certification or  
24 licensure under this part and is registered with the department who  
25 has completed no less than 12 semester units or 18 quarter units  
26 of the education required under this part.

27 (h) “Supervision” means responsibility for, and control of, the  
28 quality of alcohol and other drug counseling services being  
29 provided. Consultation or peer discussion shall not be considered  
30 to be supervision. “Supervisee” means a registrant or certified or  
31 licensed counselor under this part, as the case may be, who is  
32 seeking to meet the supervised experience requirements of this  
33 part.

34  
35 CHAPTER 2. ADMINISTRATION  
36

37 11975.20. (a) The department shall administer and enforce  
38 this part.

1 (b) The department may enter into an agreement with any  
2 governmental agency or other entity, public or private, to  
3 administer any portion of this part.

4 11975.25. In order to carry out the provisions of this part, the  
5 department shall do, but shall not be limited to, all of the following:

6 (a) Adopt rules and regulations as necessary to administer and  
7 enforce this part. The adoption, amendment, and repeal of those  
8 rules and regulations shall be made in accordance with the  
9 rulemaking provisions of the Administrative Procedure Act  
10 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
11 Division 3 of Title 2 of the Government Code).

12 (b) Develop standards for certification and licensure of alcohol  
13 and other drug counselors, including those persons presently  
14 certified pursuant to regulations adopted by the department so that  
15 they have an opportunity for certification or licensure under this  
16 part with appropriate credit for the education, training, and  
17 experience obtained prior to the department's implementation of  
18 this part. The department shall establish standards for multiple  
19 levels of alcohol and other drug counselors and may establish  
20 subspecialties with distinct requirements.

21 (c) Issue licenses, certificates, and registrations beginning  
22 January 1, 2011, to those who meet the qualifications of this part  
23 and any regulations promulgated pursuant to this part.

24 (d) Take disciplinary action against counselors where  
25 appropriate, including reprimand or probation, suspension, or  
26 revocation of the license, certificate, or registration, issuance of  
27 administrative citations, or imposition of administrative fines not  
28 to exceed five thousand dollars (\$5,000), or any combination of  
29 these.

30 (e) Establish continuing education requirements.

31 (f) Establish procedures for the receipt, investigation, and  
32 resolution of complaints.

33 (g) Establish criteria to determine whether the curriculum of an  
34 educational institution satisfies the requirements imposed by this  
35 part.

36 (h) Establish parameters of unprofessional conduct that are  
37 consistent with generally accepted ethics codes for the profession.

38 (i) Establish reinstatement procedures for an expired or revoked  
39 certificate or license.

1 (j) Establish registration and supervision requirements for  
2 registrants, including those persons presently registered pursuant  
3 to regulations adopted by the department, so that they have an  
4 opportunity for registration, certification, and licensure under this  
5 part with appropriate credit for the education, training, and  
6 experience obtained prior to the department's implementation of  
7 this part.

8 (k) Develop or adopt one or more examinations for  
9 administering to prospective licensees. The test may be  
10 administered by the department or by any public or private entity  
11 selected by the department.

12 (l) Maintain a database of certified and licensed counselors and  
13 registrants, including the individual's status, any public record of  
14 discipline, and other information as the department may require.

15  
16 CHAPTER 3. LICENSING AND CERTIFICATION  
17

18 11975.30. (a) The department shall provisionally certify as a  
19 Certified Alcohol and Other Drug Counselor each person who the  
20 department determines was certified as a counselor on January 1,  
21 2010, in accordance with regulations of the department in effect  
22 immediately prior to January 1, 2010.

23 (b) Provisional certification shall be in force for at least two,  
24 but not more than four, years, as the department may determine  
25 by regulation.

26 (c) The department may withdraw or condition a provisional  
27 certification for any reason for which it could deny, suspend,  
28 revoke, or condition a registration, certificate, or license under this  
29 part.

30 (d) The department may specify, by regulations, conditions  
31 under which eligible persons may be provisionally certified at the  
32 level of Certified Alcohol and Other Drug Counselor-Advanced  
33 or Certified Alcohol and Other Drug Counselor-Clinical  
34 Supervisor.

35 (e) The department shall specify by regulation the conditions  
36 under which persons registered to become certified, pursuant to  
37 the department's regulations in effect immediately prior to January  
38 1, 2010, may be eligible to be registered or certified under this part  
39 and receive appropriate credit for education, supervised experience,  
40 and work experience previously completed.

(f) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

11975.35. (a) Commencing January 1, 2011, the department shall issue CAODC certificates to a person who meets all of the following requirements:

(1) Meets one or more of the following:

(A) Completes 350 hours of education as specified in Section 11975.45 and possesses a high school diploma or GED.

(B) Possesses an earned Associate of Arts, Associate of Science in alcohol and drug counseling, or other major or an equivalent degree recognized by the department by regulation, from an institution of higher learning accredited by the Western Association of Schools and Colleges or an equivalent regional accrediting agency approved by the United States Department of Education.

(2) Passes the test specified in Section 11975.50.

(3) Completes 250 hours of supervised experience as specified in Section 11975.55.

(4) Completes 2,080 hours of work experience as specified in Section 11975.60.

(5) Submits to a state and federal level criminal offender record information search and passes both background checks as specified in Section 11976.10.

(6) Pays the required fees as set by the department.

(7) Completes the application for a certificate and satisfies all other requirements of this part for certification as a CAODC.

(b) Commencing January 1, 2011, the department shall issue CAODC-A certificates to a person who meets all of the following requirements:

(1) Meets either of the following:

(A) Possesses an earned Bachelor of Arts, Bachelor of Science in alcohol and drug counseling, or other major or an equivalent degree recognized by the department by regulation, from an institution of higher learning accredited by the Western Association of Schools and Colleges or an equivalent regional accrediting agency approved by the United States Department of Education.

(B) Completes 10,000 hours of work experience as specified in Section 11975.60, within a period not exceeding 10 years prior to the date the application for certification was filed and possesses a high school diploma or GED.

(2) Meets all of the requirements of paragraphs (2) to (6), inclusive, of subdivision (a), plus both of the following additional requirements:

(A) Completes an additional 150 hours of supervised experience as specified in Section 11975.55.

(B) Completes the application for a certificate and satisfies all other requirements of this part for certification as a CAODC-A.

(c) Commencing January 1, 2011, the department shall issue CAODC-CS certificates to a person who meets all of the following requirements:

(1) Meets both of the following:

(A) Possesses an earned Bachelor of Arts, Bachelor of Science in alcohol and drug counseling, or other major or an equivalent degree recognized by the department by regulation, from an institution of higher learning accredited by the Western Association of Schools and Colleges or an equivalent regional accrediting agency approved by the United States Department of Education.

(B) Completes a course of education as specified in paragraph (3) of subdivision (b) of Section 11976.50 specifically directed to the competencies of clinical supervision.

(2) Meets all of the requirements of subparagraph (A) of paragraph (2) of subdivision (b), plus both of the following additional requirements:

(A) Completes an additional 150 hours of supervised experience as specified in Section 11975.55.

(B) Completes the application for a certificate and satisfies all other requirements of this part for certification as a CAODC-CS, including any additional requirements specified by the department related to clinical supervision.

11975.40. Commencing January 1, 2011, the department shall issue an LAODC license to a person who meets all of the following requirements:

(a) Possesses an earned Master of Arts, Master of Science in alcohol and drug counseling, psychology, or social work, or other major or an equivalent degree recognized by the department by regulation, from an institution of higher learning accredited by the Western Association of Schools and Colleges or an equivalent regional accrediting agency approved by the United States Department of Education.

1 (b) Completes a course of education as specified in paragraph  
2 (3) of subdivision (b) of Section 11976.50 specifically directed to  
3 the competencies of clinical supervision.

4 (c) Passes the test specified in Section 11975.50.

5 (d) Completes 2,000 hours of supervised experience as specified  
6 in Section 11975.55.

7 (e) Completes 6,000 hours of work experience as specified in  
8 Section 11975.60.

9 (f) Submits to a state and federal level criminal offender record  
10 information search and passes both background checks as specified  
11 in Section 11976.45.

12 (g) Pays the required fees as set by the department.

13 (h) Completes the application for a license and satisfies all other  
14 requirements of this part for licensure as an LAODC.

15 11975.45. The education required in Sections 11975.35 and  
16 11975.40 shall meet both of the following requirements:

17 (a) The curriculum shall include all of the following:

18 (1) "Addiction Counseling Competencies," Technical Assistance  
19 Publication Series No. 21, 2006, published by the United States  
20 Department of Health and Human Services, Substance Abuse and  
21 Mental Health Services Administration, Center for Substance  
22 Abuse Treatment.

23 (2) "Competencies for Substance Abuse Treatment Clinical  
24 Supervisors," Technical Assistance Publication Series No. 21-A,  
25 2007, published by the United States Department of Health and  
26 Human Services, Substance Abuse and Mental Health Services  
27 Administration, Center for Substance Abuse Treatment.

28 (3) Other materials, sources, and requirements in addition to,  
29 or in lieu of, the above, including, but not limited to, more specific  
30 subject matter requirements, as the department may specify by  
31 regulation.

32 (b) Education provided by either of the following:

33 (1) An institution of higher learning accredited by the Western  
34 Association of Schools and Colleges or an equivalent regional  
35 accrediting agency approved by the United States Department of  
36 Education.

37 (2) Other providers as approved by the department, whether  
38 individually, through accreditation by another entity recognized  
39 by the department, or otherwise as the department may specify by  
40 regulation.



1 11975.50. The test required for certification under Sections  
2 11975.35 and 11975.40 shall be any, or all, of the following as  
3 determined by the department:

4 (a) The written examination offered by the International  
5 Certification & Reciprocity Consortium/Alcohol & Other Drug  
6 Abuse, Inc., an organization comprised of domestic and  
7 international organizations involved in credentialing and licensing  
8 alcohol and other drug counselors.

9 (b) Alternate or additional test or tests as the department may  
10 develop.

11 (c) Alternate or additional test or tests as the department may  
12 recognize and approve, whether individually, through accreditation  
13 by another entity recognized by the department, or otherwise as  
14 the department may specify by regulation.

15 11975.55. The supervised experience required for certification  
16 under Sections 11975.35 and 11975.40 shall meet all of the  
17 following criteria:

18 (a) The required supervised experience may be gained under  
19 the clinical supervision of a CAODC-CS, an LAODC, or another  
20 licensed mental health professional specified by the department  
21 by regulation. This experience shall consist of all of the following:

22 (1) A minimum of 70 percent of the required hours shall be  
23 face-to-face individual or group counseling provided to clients in  
24 the context of alcohol and other drug services, unless the  
25 department modifies this requirement by regulation.

26 (2) A maximum of 30 percent of the required hours may be in  
27 case management, client-centered advocacy, consultation,  
28 evaluation, and research, unless the department modifies this  
29 requirement by regulation.

30 (3) The required hours of supervised experience shall be  
31 obtained over a period of not less than one year and shall have  
32 been gained within the six years immediately preceding the date  
33 on which the application for certification or licensure was filed.

34 (4) Experience shall not be credited for more than 40 hours in  
35 any week.

36 (b) (1) Prior to the commencement of supervision, a supervisor  
37 shall comply with all requirements for supervisors as established  
38 by the department by regulation.

39 (2) A supervisee shall receive an average of at least one hour  
40 of direct supervisor contact for every week in which more than 10

1 hours of face-to-face counseling is performed in each setting where  
2 experience is gained. No more than five hours of supervision,  
3 whether individual or group, shall be credited during any single  
4 week. For purposes of this section, “one hour of direct supervisor  
5 contact” means one hour of face-to-face contact on an individual  
6 basis or two hours of face-to-face contact in a group, of not more  
7 than eight persons receiving supervision, addressing the substance  
8 of the supervisory plan required in subdivision (c).

9 (c) The supervisor and the supervisee shall develop a supervisory  
10 plan that describes the goals and objectives of supervision. These  
11 goals shall include the ongoing assessment of strengths and  
12 limitations and the assurance of practice in accordance with the  
13 laws and regulations. The supervisee shall submit to the department  
14 the initial original supervisory plan upon application for licensure  
15 or certification.

16 (d) Experience shall be gained only in a setting that meets both  
17 of the following:

18 (1) Lawfully and regularly provides alcohol and other drug  
19 counseling.

20 (2) Provides oversight to ensure that the supervisee’s work at  
21 the setting meets the experience and supervision requirements set  
22 forth in this part and is within the scope of practice for the  
23 profession as defined in Section 11975.75.

24 (e) Experience shall not be gained until the applicant has been  
25 registered as a supervisee.

26 (f) A supervisee may be either a paid employee or a volunteer.  
27 Employers are encouraged to provide fair remuneration to  
28 supervisees.

29 (g) A supervisee shall not receive any remuneration from  
30 patients or clients, and shall be paid only by his or her employer.  
31 A supervisee shall not have any proprietary interest in the  
32 employer’s business.

33 (h) A supervisee may receive supervision from a person not  
34 employed by the supervisee’s employer if that person has signed  
35 a written agreement with the employer to take supervisory  
36 responsibility for the supervisee’s alcohol and other drug  
37 counseling.

38 (i) Notwithstanding any other provision of law, a supervisee  
39 shall receive a minimum of one hour of supervision per week for  
40 each setting in which he or she is working.

1 (j) The department may limit, by regulation, the number of  
2 registrants that any one supervisor may supervise, the number of  
3 registrants that may be supervised in any given program or setting,  
4 and the proportion of the workforce in any given program or setting  
5 which may be comprised of registrants, or any of these.

6 11975.60. The supervised experience required by Sections  
7 11975.35 and 11975.40 shall meet all of the following criteria:

8 (a) Not more than 40 hours of work in any seven consecutive  
9 days shall be recognized.

10 (b) No hours of experience may be gained more than six years  
11 prior to the date the application for registration, certification, or  
12 licensure, as applicable, was filed, except as provided in  
13 subparagraph (B) of paragraph (1) of subdivision (b) of Section  
14 11975.35.

15 (c) All work experience shall be at all times under the  
16 supervision of a person authorized to provide clinical supervision  
17 pursuant to this part, who shall be responsible for ensuring that  
18 the extent, kind, and quality of counseling performed is consistent  
19 with the training and experience of the person being supervised,  
20 and who shall be responsible to the department for compliance  
21 with all laws, rules, and regulations governing the practice of  
22 alcohol and other drug counseling. Supervised experience shall be  
23 gained either as an employee or as a volunteer. Experience shall  
24 not be gained as an independent contractor.

25 (1) Supervision shall include at least one hour of direct  
26 supervisor contact in each week for which experience is credited  
27 in each work setting, as specified.

28 (2) For purposes of this section, “one hour of direct supervisor  
29 contact” means one hour of face-to-face contact on an individual  
30 basis or two hours of face-to-face contact in a group of not more  
31 than eight persons.

32 (d) Work experience may be completed in any setting that meets  
33 all of the following:

34 (1) Lawfully and regularly provides alcohol and other drug  
35 counseling.

36 (2) Provides oversight to ensure that the registrant’s work at the  
37 setting meets the requirements set forth in this part.

38 (3) Experience may be gained solely as part of the position for  
39 which the individual volunteers or is employed. Employers are  
40 encouraged to provide fair remuneration to registrants.

(e) Except to the extent that the department provides otherwise by regulation, all persons shall register with the department in order to be credited for the work experience necessary for licensure or certification.

(f) A registrant shall not receive any remuneration from patients or clients, and shall be paid only by his or her employer.

11975.65. Nothing in this part shall be construed to constrict, limit, or withdraw the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), the Psychology Licensing Act (Chapter 6.6 (commencing with Section 2900)), the Marriage and Family Therapist Act (Chapter 13 (commencing with Section 4980)), or the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)) of Division 2 of the Business and Professions Code.

11975.70. This part shall not apply to any of the following, provided that this exception shall not preclude the department from considering any conduct in any setting in its determination of fitness for registration, certification, or licensure or in any disciplinary matter:

(a) A person who engages in the practice of alcohol and drug counseling exclusively for any of the following:

(1) For in-custody services of the California Department of Corrections and Rehabilitation.

(2) As an employee or volunteer of the State of California.

(3) As an employee or volunteer of an agency of the United States government.

(b) A person who is an unpaid member of a peer or self-help group who performs peer group or self-help activities if the person does not use a title stating or implying that he or she is a licensed alcohol and drug counselor or any other designation listed in Section 11975.85.

(c) A cleric or other religious leader who provides advice and guidance to members of his or her congregation or order free of charge.

(d) A director, officer, or staff member of a program described in Section 8001 of the Penal Code.

11975.75. (a) An individual licensed or certified under this part may engage in the practice of alcohol and drug counseling. For purposes of this part, the “practice of alcohol and drug

counseling” means performing any of the following services for the purpose of treating alcohol and drug abuse:

- (1) Initial intake.
- (2) Assessment.
- (3) Orientation.
- (4) Treatment planning.
- (5) Alcohol and drug counseling, including individual, group, and significant others.
- (6) Case management.
- (7) Crisis intervention.
- (8) Client education.
- (9) Referral.
- (10) Reports and recordkeeping.
- (11) Consultation with other professionals with regard to client treatment or services.

(b) A counselor or registrant may perform the acts listed in this section only for the purpose of treating alcohol and other drug problems.

11975.80. The department shall issue a license or certification to each applicant meeting the requirements of this part, which license or certification permits the holder to engage in alcohol and other drug counseling as defined in Section 11975.75, entitles the holder to use the title of licensed or certified alcohol and other drug counselor, as applicable, and authorizes the holder to hold himself or herself out as qualified to perform the functions delineated by this part, subject to any limitations relating to the level of the license or certification or other conditions that may be imposed by the department. The form and content of the license or certification shall be determined by the department.

11975.85. A person who has received a certificate or license under this part may use the title “Certified Alcohol and Other Drug Counselor” or “CAODC,” “Certified Alcohol and Other Drug Counselor – Advanced” or “CAODC-A,” “Certified Alcohol and Other Drug Counselor – Clinical Supervisor” or “CAODC-CS,” or “Licensed Alcohol and Other Drug Counselor” or “LAODC,” in accordance with the type of certificate or license possessed. Every person who styles himself or herself or who holds himself or herself out to be a Certified Alcohol and Other Drug Counselor, Certified Alcohol and Other Drug Counselor—Advanced, Certified Alcohol and other Drug Counselor-Clinical Supervisor, or Licensed

1 Alcohol and Other Drug Counselor without holding a license or  
2 certification in good standing under this part, is guilty of a  
3 misdemeanor.

4 11975.90. It is unlawful for a person to engage in the practice  
5 of alcohol and other drug counseling unless at the time of so doing  
6 the person holds a valid, unexpired, and unrevoked certificate or  
7 license under this part.

8 11975.95. The department may deny, revoke, suspend, or  
9 impose conditions upon a license, certification, or registration for  
10 unprofessional conduct. Unprofessional conduct, includes, but is  
11 not limited to, any of the following:

12 (a) The conviction of a crime which permits denial of a license,  
13 certification, or registration pursuant to Section 11976.45.

14 (b) Securing a license or registration by fraud, deceit, or  
15 misrepresentation on any application submitted to the department,  
16 whether engaged in by an applicant for a license or registration,  
17 or by a licensee in support of any application for licensure or  
18 registration.

19 (c) Administering to himself or herself any controlled substance  
20 as defined in Section 4021 of the Business and Professions Code,  
21 or using any of the dangerous drugs or devices specified in Section  
22 4022 of the Business and Professions Code or using any alcoholic  
23 beverage to the extent, or in a manner, as to be dangerous or  
24 injurious to the person applying for a registration or license or  
25 holding a registration or license under this part, or to any other  
26 person, or to the public, or, to the extent that the use impairs the  
27 ability of the person applying for or holding a registration or  
28 license, to conduct with safety to the public the counseling  
29 authorized by the registration or license. The department may deny  
30 an application for a registration or license or revoke the license or  
31 registration of any person who uses or offers to use a controlled  
32 substance as defined in Section 4021 of the Business and  
33 Professions Code, a dangerous drug or device specified in Section  
34 4022 of the Business and Professions Code, or alcohol in the course  
35 of performing alcohol and other drug counseling. This provision  
36 does not apply to any person also licensed as a physician and  
37 surgeon under Chapter 5 (commencing with Section 2000) of the  
38 Business and Professions Code or the Osteopathic Act who  
39 lawfully prescribes drugs to a patient under his or her care.

1 (d) Gross negligence or incompetence in the performance of  
2 alcohol and other drug counseling.

3 (e) Violating, attempting to violate, or conspiring to violate this  
4 part or any regulation adopted by the department.

5 (f) Misrepresentation as to the type or status of a license,  
6 certification, or registration held by the person, or otherwise  
7 misrepresenting or permitting misrepresentation of his or her  
8 education, professional qualifications, or professional affiliations  
9 to any person or entity.

10 (g) Impersonation of another by any counselor or registrant, or  
11 applicant for a license or registration, or, in the case of a counselor,  
12 allowing any other person to use his or her license or registration.

13 (h) Aiding or abetting any unlicensed, uncertified, or  
14 unregistered person to engage in conduct for which a license,  
15 certification, or registration is required under this part.

16 (i) Intentionally or recklessly causing physical or emotional  
17 harm to any client.

18 (j) The commission of any dishonest, corrupt, or fraudulent act  
19 substantially related to the qualifications, functions, or duties of a  
20 counselor or registrant.

21 (k) Engaging in sexual relations with a client or with a former  
22 client within two years from the termination date of therapy with  
23 the client, soliciting sexual relations with a client, or committing  
24 an act of sexual abuse, or sexual misconduct with a client, or  
25 committing an act punishable as a sexually related crime, if that  
26 act or solicitation is substantially related to the qualifications,  
27 functions, or duties of an alcohol and other drug counselor.

28 (l) Performing, or holding oneself out as being able to perform,  
29 or offering to perform, or permitting any licensee under supervision  
30 to perform any professional services beyond the scope of the  
31 license authorized by this part.

32 (m) Failure to maintain confidentiality, except as otherwise  
33 required or permitted by law, including, but not limited to, Part 2  
34 (commencing with Section 2.1) of Subchapter A of Chapter 1 of  
35 Title 42 of the Code of Federal Regulations.

36 (n) Prior to the commencement of treatment, failing to disclose  
37 to the client or prospective client the fee to be charged for the  
38 professional services, or the basis upon which that fee will be  
39 computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising or using a name in a manner that is false, misleading, or deceptive.

(q) Conduct in the supervision of any individual licensed, certified, or registered counselor that violates this part or rules or regulations adopted by the department.

(r) Failure to keep records consistent with sound professional judgment, the standards of the profession, and the nature of the services being rendered.

(s) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(t) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(u) Willful denial of access to client records as otherwise provided by law.

11976.10. The department shall revoke a license, certification, or registration issued under this part upon a decision made in accordance with the procedures set forth in the adjudication provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) that contains any finding of fact that the counselor or registrant engaged in any act of sexual contact, as defined in Section 729 of the Business and Professions Code, when that act is with a client, or with a former client when the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the department.

11976.15. The department may deny an application, or may suspend or revoke a license, certification, or registration issued under this part, for denial of licensure, revocation, suspension, restriction, or other disciplinary action imposed by another state



1 or territory of the United States, or by any other governmental  
2 agency, on a license, certificate, or registration to practice alcohol  
3 and other drug counseling or other healing art. A certified copy of  
4 the disciplinary action decision or judgment shall be conclusive  
5 evidence of that action.

6 11976.20. The director may temporarily suspend a license,  
7 certification, or registration prior to a hearing when, in the opinion  
8 of the director, the action is necessary to protect a client from  
9 physical or mental abuse, abandonment, or other substantial threat  
10 to health or safety. The director shall give notice of the temporary  
11 suspension and the effective date of the temporary suspension and,  
12 at the same time, shall serve an accusation. Upon receipt of a notice  
13 of defense to the accusation, the director shall, within 15 days, set  
14 the matter for hearing, and the hearing shall be held as soon as  
15 possible. The temporary suspension shall remain in effect until the  
16 time the hearing is completed and the director has made a final  
17 determination on the need for the temporary suspension to remain  
18 in place pending resolution of the accusation. However, the  
19 temporary suspension shall be deemed vacated if the director fails  
20 to make a final determination on the merits within 30 days after  
21 the hearing, if the director hears the matter personally or within  
22 30 days after the department receives the proposed decision from  
23 the Office of Administrative Hearings, or if the matter is heard by  
24 a hearing officer.

25 11976.25. (a) A person licensed, certified, or registered by the  
26 department under this part has the right to appeal an adverse  
27 decision of the department with regard to his or her license,  
28 certificate, or registration.

29 (b) Unless the department specifies additional or different due  
30 process provisions by regulation, an appeal shall be determined in  
31 accordance with the adjudication provisions of the Administrative  
32 Procedure Act (Chapter 5 (commencing with Section 11500) of  
33 Part 1 of Division 3 of Title 2 of the Government Code).

34 11976.30. The department may impose reasonable terms,  
35 conditions, or restrictions on a disciplinary action to protect the  
36 health, safety, and welfare of the public.

37 11976.35. A person may request reinstatement of a license or  
38 certification, or a reduction of discipline, by applying for  
39 reinstatement or reduction pursuant to Section 11522 of the  
40 Government Code.

1 11976.40. An applicant who fails a written or oral examination  
2 administered by or on behalf of the department may within one  
3 year from the notification date of failure retake that examination  
4 at the next regularly scheduled examination date, without further  
5 application, upon payment of the required examination fees.  
6 Thereafter, the applicant shall not be eligible for further  
7 examination until he or she files a new application, meets all  
8 current requirements, and pays all required fees.

9 11976.45. (a) An applicant for a license, certification, or  
10 registration under this part shall consent to a state and federal level  
11 criminal offender record information search as part of a criminal  
12 history background check. Refusal to consent to the criminal  
13 history background check, as delineated in this section, shall result  
14 in denial of the license, certification, or registration.

15 (b) In addition to the persons specified in subdivision (a), this  
16 section also applies to all employees and volunteers of programs,  
17 facilities, or services licensed or certified by the department, who  
18 may have unsupervised contact with clients.

19 (c) The following procedure shall be followed for criminal  
20 offender record information searches:

21 (1) The department shall submit to the Department of Justice  
22 fingerprint images and related information required by the  
23 Department of Justice of all alcohol and other drug counselor  
24 licensure, certification, or registration applicants, as defined by  
25 Section 11975.25, and all employees and volunteers of programs,  
26 facilities, or services licensed or certified by the department, who  
27 may have unsupervised contact with clients for the purposes of  
28 obtaining information as to the existence and content of a record  
29 of state or federal convictions and state or federal arrests and also  
30 information as to the existence and content of a record of state or  
31 federal arrests for which the Department of Justice establishes that  
32 the person is free on bail or on his or her own recognizance pending  
33 trial or appeal.

34 (2) When received, the Department of Justice shall forward to  
35 the Federal Bureau of Investigation requests for federal summary  
36 criminal history information received pursuant to this section. The  
37 Department of Justice shall review the information returned from  
38 the Federal Bureau of Investigation and compile and disseminate  
39 a response to the department.

1 (3) The Department of Justice shall provide a response to the  
2 department pursuant to paragraph (1) of subdivision (p) of Section  
3 11105 of the Penal Code.

4 (4) The department shall request from the Department of Justice  
5 subsequent arrest notification service, as provided pursuant to  
6 Section 11105.2 of the Penal Code, for persons described in  
7 paragraph (1).

8 (5) The Department of Justice shall charge fees sufficient to  
9 cover the cost of processing the request described in this section.  
10 The applicant shall be responsible for payment of these fees.

11 (6) The applicant shall pay the fingerprint image rolling -  
12 electronic submission fee charged by the Live Scan device operator.

13 (d) Before issuing a registration, certification, or license to an  
14 individual defined in subdivision (a) or a clearance to an individual  
15 defined in subdivision (b), the department shall ensure that the  
16 state and federal level criminal history of the applicant is reviewed.

17 (e) The department shall deny or revoke a license, certification,  
18 or registration to an individual if, at the time of the department's  
19 determination, the person would be ineligible to be sentenced to  
20 probation pursuant to Section 1210.1 of the Penal Code, subject  
21 to all of the following conditions:

22 (1) The department shall treat its date of determination as  
23 equivalent to the date of conviction of a nonviolent drug possession  
24 offense under Section 1210.1 of the Penal Code.

25 (2) The department shall apply the five-year clearing period in  
26 paragraph (1) of subdivision (b) of Section 1210.1 of the Penal  
27 Code to all of the exclusions described in subdivision (b) of Section  
28 1210.1 of the Penal Code.

29 (f) Notwithstanding subdivision (e), and unless the individual  
30 concerned has obtained a certificate of rehabilitation as provided  
31 in Chapter 3.5 (commencing with Section 4852.01) of Part 3 of  
32 Title 6 of the Penal Code, the department shall permanently deny  
33 or revoke a license, certification, or registration to a person  
34 convicted of any violent felony as defined in subdivision (c) of  
35 Section 667.5 of the Penal Code, except that a person convicted  
36 of robbery, as specified in paragraph (9) of subdivision (c) of  
37 Section 667.5 of the Penal Code, or burglary as specified in  
38 paragraph (21) of subdivision (c) of Section 667.5 of the Penal  
39 Code, is not excluded for this reason after a period of 10 years in  
40 which the person remained free of both prison custody and the

1 commission of an offense that results in a felony conviction other  
2 than a nonviolent drug possession offense, or a misdemeanor  
3 conviction involving physical injury or the threat of physical injury  
4 to another person.

5 (g) Notwithstanding subdivision (e) or (f), and unless the person  
6 concerned has obtained a certificate of rehabilitation as provided  
7 in Chapter 3.5 (commencing with Section 4852.01) of Part 3 of  
8 Title 6 of the Penal Code, the department shall permanently deny  
9 or revoke a license, certification, or registration to a person  
10 convicted of driving under the influence of any alcoholic beverage  
11 or drug, or under the combined influence of any alcoholic beverage  
12 and drug, as specified in Section 23153 of the Vehicle Code, until  
13 a period of 10 years has passed since that conviction, during which  
14 period the individual remained free of both prison custody and the  
15 commission of an offense that results in a felony conviction other  
16 than a nonviolent drug possession offense, or a misdemeanor  
17 conviction involving physical injury or the threat of physical injury  
18 to another person.

19 (h) The department may establish by regulation additional  
20 criteria to implement subdivision (g), which may include, but not  
21 be limited to, standards, exemptions, and terms of rehabilitation,  
22 and may include rebuttable presumptions with regard to any of  
23 those.

24 (i) This section shall become operative July 1, 2010.

25 11976.50. (a) Licenses or certifications issued under this part  
26 shall expire within two years after the issue date. The expiration  
27 date of the original license or certification shall be set by the  
28 department.

29 (b) To renew an unexpired license or certification, the counselor  
30 shall, on or before the expiration date of the license or certification,  
31 complete the following actions:

32 (1) Apply for a renewal on a form prescribed by the department.

33 (2) Pay a two-year renewal fee prescribed by the department.

34 (3) Complete at least 40 hours of continuing education, as  
35 approved by the department.

36 (4) Notify the department whether he or she has been convicted,  
37 as defined in subdivision (a) of Section 11975.95 of a misdemeanor  
38 or felony, or whether any disciplinary action has been taken by  
39 any regulatory or licensing board in this or any other state,  
40 subsequent to the licensee's last renewal.

1 (c) To renew an expired license or certification within three  
2 years of its expiration, the counselor shall, as a condition precedent  
3 to renewal, do all of the following:

4 (1) Apply for renewal on a form prescribed by the department  
5 within three years of the expiration date of the license.

6 (2) Pay the renewal fees that would have been paid if the license  
7 had not been delinquent.

8 (3) Pay all delinquency fees.

9 (4) Complete the applicable continuing education requirements.

10 (5) Notify the department whether he or she has been subject  
11 to, or whether another department or board has taken, disciplinary  
12 action since the last renewal.

13 (d) A license or certification that is not renewed within three  
14 years after its expiration is prohibited from being renewed, restored,  
15 reinstated, or reissued thereafter. However, the counselor may  
16 apply for and obtain a new license or certification if he or she  
17 satisfies all of the following requirements:

18 (1) No fact, circumstance, or condition exists that, if the license  
19 or certification were issued, would justify its revocation or  
20 suspension.

21 (2) He or she submits an application for examination eligibility.

22 (3) He or she takes and passes the current licensing  
23 examinations.

24 (4) He or she submits the fees for examination eligibility and  
25 for initial license or certification issuance.

26 11976.55. A counselor shall display his or her license or  
27 certification in a conspicuous place in the counselor's primary  
28 place of business. The current renewal receipt shall be displayed  
29 near the license.

30 11976.60. A licensed alcohol and other drug counselor who  
31 conducts a private practice under a fictitious business name shall  
32 not use a name that is false, misleading, or deceptive, and shall  
33 inform the patient, prior to the commencement of treatment, of the  
34 name and license designation of the owner or owners of the  
35 practice.

36 11976.65. A license or certification that is not renewed within  
37 three years after its expiration is prohibited from being renewed,  
38 restored, reinstated, or reissued thereafter, but the former licensed  
39 or certified individual may apply for and obtain a new license or  
40 certification if all of the following are satisfied:

1 (a) No fact, circumstance, or condition exists that, if the license  
2 or certification were issued, would justify its revocation or  
3 suspension.

4 (b) He or she pays the fees that would be required if he or she  
5 were applying for a license or certification for the first time.

6 (c) He or she meets the current requirements for licensure or  
7 certification as a licensed or certified alcohol and other drug  
8 counselor under Section 11975.35 or 11975.40.

9 11976.70. A suspended license or certification is subject to  
10 expiration and may be renewed as provided in this part, but the  
11 renewal does not entitle the counselor, while it remains suspended  
12 and until it is reinstated, to engage in the activity to which the  
13 license or certification relates, or in any other activity or conduct  
14 in violation of the order or judgment by which it was suspended.

15 11976.75. An individual whose license or certificate has been  
16 revoked may apply for reinstatement pursuant to Section 11522  
17 of the Government Code.

18 11976.80. A licensed or certified alcohol and other drug  
19 counselor may apply to the department to request that his or her  
20 license or certification be placed on inactive status. A person who  
21 holds an inactive license or certification shall pay a biennial fee  
22 of one-half of the active renewal fee and shall be exempt from  
23 continuing education requirements specified in paragraph (3) of  
24 subdivision (b) of Section 11976.50, but shall otherwise be subject  
25 to this part and shall not engage in the practice of alcohol and other  
26 drug counseling in this state. A counselor on inactive status who  
27 has not committed any acts or crimes constituting grounds for  
28 denial of licensure or certification may, upon his or her request,  
29 have his or her license or certification to practice alcohol other  
30 and drug counseling placed on active status. A person requesting  
31 his or her license or certification to be placed on active status at  
32 any time during a renewal cycle shall pay a pro rata portion of the  
33 renewal fees. A person requesting to reactivate from an inactive  
34 status whose license or certification will expire less than one year  
35 from the date of the request shall be required to complete 20 hours  
36 of continuing education for license renewal. A person requesting  
37 to reactivate from an inactive status whose license or certification  
38 will expire more than one year from the date of the request shall  
39 be required to complete 40 hours of continuing education for  
40 license or certification renewal.

1 11976.85. A person licensed, certified, or registered under this  
2 part shall comply with both of the following:

3 (a) Provide written notice to the department within 30 days of  
4 any change of address.

5 (b) Provide written notice to the department within 30 days of  
6 a name change giving both the old and the new names along with  
7 a copy of the legal document authorizing the name change,  
8 including, but not limited to, a court order or marriage license.

9 11976.90. (a) Except as otherwise provided in this part, an  
10 accusation filed pursuant to Section 11503 of the Government  
11 Code against a person licensed, certified, or registered under this  
12 part shall be filed within three years from the date the department  
13 discovers the alleged act or omission that is the basis for  
14 disciplinary action or within seven years from the date the alleged  
15 act or omission that is the basis for disciplinary action occurred,  
16 whichever occurs first.

17 (b) An accusation filed against a person licensed, certified, or  
18 registered alleging the procurement of a license, certification, or  
19 registration by fraud or misrepresentation is not subject to the  
20 limitations set forth in subdivision (a).

21 (c) An accusation alleging sexual misconduct shall be filed  
22 within three years after the department discovers the act or  
23 omission alleged as the grounds for disciplinary action or within  
24 10 years after the act or omission alleged as the grounds for  
25 disciplinary action occurred, whichever occurs first.

26 (d) If an alleged act or omission involves a minor, the seven-year  
27 limitation period provided for by subdivision (a) and the 10-year  
28 limitation period provided for by subdivision (d) shall be tolled  
29 until the minor reaches the age of majority.

30 (e) The limitation period provided by subdivision (a) shall be  
31 tolled during any period if material evidence necessary for  
32 prosecuting or determining whether a disciplinary action would  
33 be appropriate is unavailable to the department due to an ongoing  
34 criminal investigation.

35 (f) For purposes of this section, “discovers” means the latest of  
36 the occurrence of any of the following with respect to each act or  
37 omission alleged as the basis for disciplinary action:

38 (1) The date the department received a complaint or report  
39 describing the act or omission.

(2) The date, subsequent to the original complaint or report, on which the department became aware of any additional acts or omissions alleged as the basis for disciplinary action against the same individual.

(3) The date the department receives from the complainant a written release of information pertaining to the complainant's diagnosis and treatment.

11976.95. Nothing in this part shall apply to any alcohol and other drug counselor from outside this state, when in actual consultation with a licensed practitioner of this state, or when an invited guest of a professional association, or of an educational institution for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, if he or she is at the time of the consultation, lecture, or demonstration licensed to practice alcohol and other drug counseling in the state or country in which he or she resides. These alcohol and other drug counselors shall not open an office or appoint a place to meet clients or receive calls from clients within the limits of this state.

11976.97. (a) Education, supervised experience, and work experience gained outside of California may be accepted toward the licensure or certification requirements if it is substantially the equivalent of the requirements of this part.

(b) The department may issue a license or certification to any person who, at the time of application, meets all of the following requirements:

(1) Has held a valid active alcohol and other drug counseling license or certification issued by a board of alcohol and other drug counseling examiners or corresponding authority of any state.

(2) Passes the licensing examinations as specified in Section 11975.35 or 11975.40.

(3) Pays the required fees.

(4) Passes the required background check.

(5) Is not subject to denial of licensure under this part.

#### CHAPTER 4. FISCAL PROVISIONS

11977.10. The Alcohol and Other Drug Counselors License Fund is hereby established in the State Treasury. All fees and fines collected by the department in accordance with this part shall be deposited in this fund. The money in the fund shall be available,



1 upon appropriation by the Legislature, for the purpose of supporting  
2 the counselor licensing activities of the department.

3 11977.15. (a) Until the department establishes different fees  
4 by regulation, the department shall assess the following fees  
5 relating to the licensure, certification, or registration of alcohol  
6 and other drug counselors:

7 (1) The application fee for registration as a registrant shall be  
8 seventy-five dollars (\$75).

9 (2) The fee for renewal of a registration shall be seventy-five  
10 dollars (\$75).

11 (3) The fee for application for examination eligibility shall be  
12 one hundred dollars (\$100).

13 (4) The fee for a written examination administered by or on  
14 behalf of the department shall be one hundred fifty dollars (\$150).

15 (5) The fee for an oral examination, if any, administered by or  
16 on behalf of the department, shall be one hundred dollars (\$100).

17 (A) An applicant who fails to appear for an examination, after  
18 having been scheduled to take the examination, shall forfeit the  
19 examination fee.

20 (B) This subdivision shall not establish or limit the examination  
21 fee charged for the examination recognized in subdivision (a) of  
22 Section 11975.50 or any other examination that is recognized by  
23 the department but not administered by or on behalf of the  
24 department.

25 (6) The fee for rescoring an examination shall be twenty dollars  
26 (\$20).

27 (7) The fee for issuance of an initial license or certification shall  
28 be one hundred fifty-five dollars (\$155).

29 (8) The fee for a license or certification renewal shall be one  
30 hundred fifty-five dollars (\$155).

31 (9) The fee for an inactive license or certification renewal shall  
32 be seventy-seven dollars and fifty cents (\$77.50).

33 (10) The renewal delinquency fee shall be seventy-five dollars  
34 (\$75). A person who permits his or her license or certification to  
35 expire is subject to the delinquency fee.

36 (11) The fee for issuance of a replacement registration, license,  
37 or certificate shall be twenty dollars (\$20).

38 (12) The fee for issuance of a certificate or letter of good  
39 standing shall be twenty-five dollars (\$25).

1 (13) The fee for department review of the criminal records  
2 information shall be thirty dollars (\$30).

3 (14) The fee for the state level criminal offender record  
4 information search shall be set by the Department of Justice and  
5 the fee for the federal level criminal offender record information  
6 search shall be set by the Federal Bureau of Investigation.

7 (b) The department may establish fees based on other categories  
8 or classifications that the department deems necessary or  
9 convenient to maintain an effective and equitable fee structure.  
10 However, the total fees collected by the department pursuant to  
11 this part shall not exceed the total cost to the department of  
12 administering this part.

13 (c) Unless funds are specifically appropriated from the General  
14 Fund in the annual Budget Act or other legislation to support the  
15 activities of the department pursuant to this part, those activities  
16 shall be supported entirely by federal funds and special funds.

17 SEC. 2. Section 11165.7 of the Penal Code is amended to read:  
18 11165.7. (a) As used in this article, “mandated reporter” is  
19 defined as any of the following:

20 (1) A teacher.

21 (2) An instructional aide.

22 (3) A teacher’s aide or teacher’s assistant employed by any  
23 public or private school.

24 (4) A classified employee of any public school.

25 (5) An administrative officer or supervisor of child welfare and  
26 attendance, or a certificated pupil personnel employee of any public  
27 or private school.

28 (6) An administrator of a public or private day camp.

29 (7) An administrator or employee of a public or private youth  
30 center, youth recreation program, or youth organization.

31 (8) An administrator or employee of a public or private  
32 organization whose duties require direct contact and supervision  
33 of children.

34 (9) Any employee of a county office of education or the State  
35 Department of Education, whose duties bring the employee into  
36 contact with children on a regular basis.

37 (10) A licensee, an administrator, or an employee of a licensed  
38 community care or child day care facility.

39 (11) A Head Start program teacher.

1 (12) A licensing worker or licensing evaluator employed by a  
2 licensing agency as defined in Section 11165.11.

3 (13) A public assistance worker.

4 (14) An employee of a child care institution, including, but not  
5 limited to, foster parents, group home personnel, and personnel of  
6 residential care facilities.

7 (15) A social worker, probation officer, or parole officer.

8 (16) An employee of a school district police or security  
9 department.

10 (17) Any person who is an administrator or presenter of, or a  
11 counselor in, a child abuse prevention program in any public or  
12 private school.

13 (18) A district attorney investigator, inspector, or local child  
14 support agency caseworker unless the investigator, inspector, or  
15 caseworker is working with an attorney appointed pursuant to  
16 Section 317 of the Welfare and Institutions Code to represent a  
17 minor.

18 (19) A peace officer, as defined in Chapter 4.5 (commencing  
19 with Section 830) of Title 3 of Part 2, who is not otherwise  
20 described in this section.

21 (20) A firefighter, except for volunteer firefighters.

22 (21) A physician, surgeon, psychiatrist, psychologist, dentist,  
23 resident, intern, podiatrist, chiropractor, licensed nurse, dental  
24 hygienist, optometrist, marriage, family and child counselor,  
25 clinical social worker, or any other person who is currently licensed  
26 under Division 2 (commencing with Section 500) of the Business  
27 and Professions Code.

28 (22) Any emergency medical technician I or II, paramedic, or  
29 other person certified pursuant to Division 2.5 (commencing with  
30 Section 1797) of the Health and Safety Code.

31 (23) A psychological assistant registered pursuant to Section  
32 2913 of the Business and Professions Code.

33 (24) A marriage, family, and child therapist trainee, as defined  
34 in subdivision (c) of Section 4980.03 of the Business and  
35 Professions Code.

36 (25) An unlicensed marriage, family, and child therapist intern  
37 registered under Section 4980.44 of the Business and Professions  
38 Code.

39 (26) A state or county public health employee who treats a minor  
40 for venereal disease or any other condition.

1 (27) A coroner.

2 (28) A medical examiner, or any other person who performs  
3 autopsies.

4 (29) A commercial film and photographic print processor, as  
5 specified in subdivision (e) of Section 11166. As used in this  
6 article, “commercial film and photographic print processor” means  
7 any person who develops exposed photographic film into negatives,  
8 slides, or prints, or who makes prints from negatives or slides, for  
9 compensation. The term includes any employee of such a person;  
10 it does not include a person who develops film or makes prints for  
11 a public agency.

12 (30) A child visitation monitor. As used in this article, “child  
13 visitation monitor” means any person who, for financial  
14 compensation, acts as monitor of a visit between a child and any  
15 other person when the monitoring of that visit has been ordered  
16 by a court of law.

17 (31) An animal control officer or humane society officer. For  
18 the purposes of this article, the following terms have the following  
19 meanings:

20 (A) “Animal control officer” means any person employed by a  
21 city, county, or city and county for the purpose of enforcing animal  
22 control laws or regulations.

23 (B) “Humane society officer” means any person appointed or  
24 employed by a public or private entity as a humane officer who is  
25 qualified pursuant to Section 14502 or 14503 of the Corporations  
26 Code.

27 (32) A clergy member, as specified in subdivision (d) of Section  
28 11166. As used in this article, “clergy member” means a priest,  
29 minister, rabbi, religious practitioner, or similar functionary of a  
30 church, temple, or recognized denomination or organization.

31 (33) Any custodian of records of a clergy member, as specified  
32 in this section and subdivision (d) of Section 11166.

33 (34) Any employee of any police department, county sheriff’s  
34 department, county probation department, or county welfare  
35 department.

36 (35) An employee or volunteer of a Court Appointed Special  
37 Advocate program, as defined in Rule 1424 of the California Rules  
38 of Court.

39 (36) A custodial officer as defined in Section 831.5.

1 (37) Any person providing services to a minor child under  
2 Section 12300 or 12300.1 of the Welfare and Institutions Code.

3 (38) An alcohol and *other* drug counselor *or supervisor licensed,*  
4 *certified, or registered under Part 4 (commencing with Section*  
5 *11975.10) of Division 10.5 of the Health and Safety Code. As used*  
6 ~~in this article, an “alcohol and drug counselor” is a person~~  
7 ~~providing counseling, therapy, or other clinical services for a state~~  
8 ~~licensed or certified drug, alcohol, or drug and alcohol treatment~~  
9 ~~program.~~ However, alcohol or drug abuse, or both alcohol and  
10 drug abuse, is not in and of itself a sufficient basis for reporting  
11 child abuse or neglect.

12 (b) Except as provided in paragraph (35) of subdivision (a),  
13 volunteers of public or private organizations whose duties require  
14 direct contact with and supervision of children are not mandated  
15 reporters but are encouraged to obtain training in the identification  
16 and reporting of child abuse and neglect and are further encouraged  
17 to report known or suspected instances of child abuse or neglect  
18 to an agency specified in Section 11165.9.

19 (c) Employers are strongly encouraged to provide their  
20 employees who are mandated reporters with training in the duties  
21 imposed by this article. This training shall include training in child  
22 abuse and neglect identification and training in child abuse and  
23 neglect reporting. Whether or not employers provide their  
24 employees with training in child abuse and neglect identification  
25 and reporting, the employers shall provide their employees who  
26 are mandated reporters with the statement required pursuant to  
27 subdivision (a) of Section 11166.5.

28 (d) School districts that do not train their employees specified  
29 in subdivision (a) in the duties of mandated reporters under the  
30 child abuse reporting laws shall report to the State Department of  
31 Education the reasons why this training is not provided.

32 (e) Unless otherwise specifically provided, the absence of  
33 training shall not excuse a mandated reporter from the duties  
34 imposed by this article.

35 (f) Public and private organizations are encouraged to provide  
36 their volunteers whose duties require direct contact with and  
37 supervision of children with training in the identification and  
38 reporting of child abuse and neglect.

39 SEC. 3. Section 15630 of the Welfare and Institutions Code is  
40 amended to read:

1 15630. (a) Any person who has assumed full or intermittent  
2 responsibility for the care or custody of an elder or dependent  
3 adult, whether or not he or she receives compensation, including  
4 administrators, supervisors, and any licensed staff of a public or  
5 private facility that provides care or services for elder or dependent  
6 adults, or any elder or dependent adult care custodian, health  
7 practitioner, clergy member, or employee of a county adult  
8 protective services agency or a local law enforcement agency, is  
9 a mandated reporter. *An alcohol and other drug counselor or*  
10 *supervisor licensed, certified, or registered pursuant to Part 4*  
11 *(commencing with Section 11975.10) of Division 10.5 of the Health*  
12 *and Safety Code is also a mandated reporter.*

13 (b) (1) Any mandated reporter who, in his or her professional  
14 capacity, or within the scope of his or her employment, has  
15 observed or has knowledge of an incident that reasonably appears  
16 to be physical abuse, as defined in Section 15610.63 ~~of the Welfare~~  
17 ~~and Institutions Code~~, abandonment, abduction, isolation, financial  
18 abuse, or neglect, or is told by an elder or dependent adult that he  
19 or she has experienced behavior, including an act or omission,  
20 constituting physical abuse, as defined in Section 15610.63 ~~of the~~  
21 ~~Welfare and Institutions Code~~, abandonment, abduction, isolation,  
22 financial abuse, or neglect, or reasonably suspects that abuse, shall  
23 report the known or suspected instance of abuse by telephone  
24 immediately or as soon as practicably possible, and by written  
25 report sent within two working days, as follows:

26 (A) If the abuse has occurred in a long-term care facility, except  
27 a state mental health hospital or a state developmental center, the  
28 report shall be made to the local ombudsperson or the local law  
29 enforcement agency.

30 The local ombudsperson and the local law enforcement agency  
31 shall, as soon as practicable, except in the case of an emergency  
32 or pursuant to a report required to be made pursuant to clause (v),  
33 in which case these actions shall be taken immediately, do all of  
34 the following:

35 (i) Report to the State Department of Public Health any case of  
36 known or suspected abuse occurring in a long-term health care  
37 facility, as defined in subdivision (a) of Section 1418 of the Health  
38 and Safety Code.

39 (ii) Report to the State Department of Social Services any case  
40 of known or suspected abuse occurring in a residential care facility

1 for the elderly, as defined in Section 1569.2 of the Health and  
2 Safety Code, or in an adult day care facility, as defined in paragraph  
3 (2) of subdivision (a) of Section 1502.

4 (iii) Report to the State Department of Public Health and the  
5 California Department of Aging any case of known or suspected  
6 abuse occurring in an adult day health care center, as defined in  
7 subdivision (b) of Section 1570.7 of the Health and Safety Code.

8 (iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse  
9 any case of known or suspected criminal activity.

10 (v) Report all cases of known or suspected physical abuse and  
11 financial abuse to the local district attorney's office in the county  
12 where the abuse occurred.

13 (B) If the suspected or alleged abuse occurred in a state mental  
14 hospital or a state developmental center, the report shall be made  
15 to designated investigators of the State Department of Mental  
16 Health or the State Department of Developmental Services, or to  
17 the local law enforcement agency.

18 Except in an emergency, the local law enforcement agency shall,  
19 as soon as practicable, report any case of known or suspected  
20 criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

21 (C) If the abuse has occurred any place other than one described  
22 in subparagraph (A), the report shall be made to the adult protective  
23 services agency or the local law enforcement agency.

24 (2) (A) A mandated reporter who is a clergy member who  
25 acquires knowledge or reasonable suspicion of elder or dependent  
26 adult abuse during a penitential communication is not subject to  
27 paragraph (1). For purposes of this subdivision, "penitential  
28 communication" means a communication that is intended to be in  
29 confidence, including, but not limited to, a sacramental confession  
30 made to a clergy member who, in the course of the discipline or  
31 practice of his or her church, denomination, or organization is  
32 authorized or accustomed to hear those communications and under  
33 the discipline tenets, customs, or practices of his or her church,  
34 denomination, or organization, has a duty to keep those  
35 communications secret.

36 (B) Nothing in this subdivision shall be construed to modify or  
37 limit a clergy member's duty to report known or suspected elder  
38 and dependent adult abuse when he or she is acting in the capacity  
39 of a care custodian, health practitioner, or employee of an adult  
40 protective services agency.

(C) Notwithstanding any other provision in this section, a clergy member who is not regularly employed on either a full-time or part-time basis in a long-term care facility or does not have care or custody of an elder or dependent adult shall not be responsible for reporting abuse or neglect that is not reasonably observable or discernible to a reasonably prudent person having no specialized training or experience in elder or dependent care.

(3) (A) A mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report, pursuant to paragraph (1), an incident where all of the following conditions exist:

(i) The mandated reporter has been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, as defined in Section 15610.63 ~~of the Welfare and Institutions Code~~, abandonment, abduction, isolation, financial abuse, or neglect.

(ii) The mandated reporter is not aware of any independent evidence that corroborates the statement that the abuse has occurred.

(iii) The elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.

(iv) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

(B) This paragraph shall not be construed to impose upon mandated reporters a duty to investigate a known or suspected incident of abuse and shall not be construed to lessen or restrict any existing duty of mandated reporters.

(4) (A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident where all of the following conditions exist:

(i) The mandated reporter is aware that there is a proper plan of care.

(ii) The mandated reporter is aware that the plan of care was properly provided or executed.



1 (iii) A physical, mental, or medical injury occurred as a result  
2 of care provided pursuant to clause (i) or (ii).

3 (iv) The mandated reporter reasonably believes that the injury  
4 was not the result of abuse.

5 (B) This paragraph shall not be construed to require a mandated  
6 reporter to seek, nor to preclude a mandated reporter from seeking,  
7 information regarding a known or suspected incident of abuse prior  
8 to reporting. This paragraph shall apply only to those categories  
9 of mandated reporters that the State Department of Public Health  
10 determines, upon approval by the Bureau of Medi-Cal Fraud and  
11 Elder Abuse and the state long-term care ombudsperson, have  
12 access to plans of care and have the training and experience  
13 necessary to determine whether the conditions specified in this  
14 section have been met.

15 (c) (1) Any mandated reporter who has knowledge, or  
16 reasonably suspects, that types of elder or dependent adult abuse  
17 for which reports are not mandated have been inflicted upon an  
18 elder or dependent adult, or that his or her emotional well-being  
19 is endangered in any other way, may report the known or suspected  
20 instance of abuse.

21 (2) If the suspected or alleged abuse occurred in a long-term  
22 care facility other than a state mental health hospital or a state  
23 developmental center, the report may be made to the long-term  
24 care ombudsperson program. Except in an emergency, the local  
25 ombudsperson shall report any case of known or suspected abuse  
26 to the State Department of Public Health and any case of known  
27 or suspected criminal activity to the Bureau of Medi-Cal Fraud  
28 and Elder Abuse, as soon as is practicable.

29 (3) If the suspected or alleged abuse occurred in a state mental  
30 health hospital or a state developmental center, the report may be  
31 made to the designated investigator of the State Department of  
32 Mental Health or the State Department of Developmental Services  
33 or to a local law enforcement agency or to the local ombudsperson.  
34 Except in an emergency, the local ombudsperson and the local law  
35 enforcement agency shall report any case of known or suspected  
36 criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse,  
37 as soon as is practicable.

38 (4) If the suspected or alleged abuse occurred in a place other  
39 than a place described in paragraph (2) or (3), the report may be  
40 made to the county adult protective services agency.

1 (5) If the conduct involves criminal activity not covered in  
2 subdivision (b), it may be immediately reported to the appropriate  
3 law enforcement agency.

4 (d) When two or more mandated reporters are present and jointly  
5 have knowledge or reasonably suspect that types of abuse of an  
6 elder or a dependent adult for which a report is or is not mandated  
7 have occurred, and when there is agreement among them, the  
8 telephone report may be made by a member of the team selected  
9 by mutual agreement, and a single report may be made and signed  
10 by the selected member of the reporting team. Any member who  
11 has knowledge that the member designated to report has failed to  
12 do so shall thereafter make the report.

13 (e) A telephone report of a known or suspected instance of elder  
14 or dependent adult abuse shall include, if known, the name of the  
15 person making the report, the name and age of the elder or  
16 dependent adult, the present location of the elder or dependent  
17 adult, the names and addresses of family members or any other  
18 adult responsible for the elder's or dependent adult's care, the  
19 nature and extent of the elder's or dependent adult's condition, the  
20 date of the incident, and any other information, including  
21 information that led that person to suspect elder or dependent adult  
22 abuse, as requested by the agency receiving the report.

23 (f) The reporting duties under this section are individual, and  
24 no supervisor or administrator shall impede or inhibit the reporting  
25 duties, and no person making the report shall be subject to any  
26 sanction for making the report. However, internal procedures to  
27 facilitate reporting, ensure confidentiality, and apprise supervisors  
28 and administrators of reports may be established, provided they  
29 are not inconsistent with this chapter.

30 (g) (1) Whenever this section requires a county adult protective  
31 services agency to report to a law enforcement agency, the law  
32 enforcement agency shall, immediately upon request, provide a  
33 copy of its investigative report concerning the reported matter to  
34 that county adult protective services agency.

35 (2) Whenever this section requires a law enforcement agency  
36 to report to a county adult protective services agency, the county  
37 adult protective services agency shall, immediately upon request,  
38 provide to that law enforcement agency a copy of its investigative  
39 report concerning the reported matter.

1 (3) The requirement to disclose investigative reports pursuant  
2 to this subdivision shall not include the disclosure of social services  
3 records or case files that are confidential, nor shall this subdivision  
4 be construed to allow disclosure of any reports or records if the  
5 disclosure would be prohibited by any other provision of state or  
6 federal law.

7 (h) Failure to report, or impeding or inhibiting a report of,  
8 physical abuse, as defined in Section 15610.63 of the ~~Welfare and~~  
9 ~~Institutions Code~~, abandonment, abduction, isolation, financial  
10 abuse, or neglect of an elder or dependent adult, in violation of  
11 this section, is a misdemeanor, punishable by not more than six  
12 months in the county jail, by a fine of not more than one thousand  
13 dollars (\$1,000), or by both that fine and imprisonment. Any  
14 mandated reporter who willfully fails to report, or impedes or  
15 inhibits a report of, physical abuse, as defined in Section 15610.63  
16 of the ~~Welfare and Institutions Code~~, abandonment, abduction,  
17 isolation, financial abuse, or neglect of an elder or dependent adult,  
18 in violation of this section, where that abuse results in death or  
19 great bodily injury, shall be punished by not more than one year  
20 in a county jail, by a fine of not more than five thousand dollars  
21 (\$5,000), or by both that fine and imprisonment. If a mandated  
22 reporter intentionally conceals his or her failure to report an  
23 incident known by the mandated reporter to be abuse or severe  
24 neglect under this section, the failure to report is a continuing  
25 offense until a law enforcement agency specified in paragraph (1)  
26 of subdivision (b) of Section 15630 of the ~~Welfare and Institutions~~  
27 ~~Code~~ discovers the offense.

28 (i) For purposes of this section, “dependent adult” shall have  
29 the same meaning as in Section 15610.23.

30 SEC. 4. No reimbursement is required by this act pursuant to  
31 Section 6 of Article XIII B of the California Constitution because  
32 the only costs that may be incurred by a local agency or school  
33 district will be incurred because this act creates a new crime or  
34 infraction, eliminates a crime or infraction, or changes the penalty  
35 for a crime or infraction, within the meaning of Section 17556 of  
36 the Government Code, or changes the definition of a crime within  
37 the meaning of Section 6 of Article XIII B of the California  
38 Constitution.

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